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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 29th January, 1983/Magha 9, 1904 (Saka)

The following President's Act is published for general information:—

THE ASSAM EXECUTIVE MAGISTRATES (TEMPORARY
POWERS) ACT, 1983

No. 1 OF 1983

Enacted by the President in the Thirty-fourth Year of the
Republic of India.

An Act to confer, in view of the extraordinary circumstances pre-
vailing in the State of Assam, certain powers under the Code
of Criminal Procedure, 1973, on Executive Magistrates in that
State for a temporary period.

25 of 1982. In exercise of the powers conferred by section 3 of the Assam State
Legislature (Delegation of Powers) Act, 1982, the President is pleased
to enact as follows:—

1. (1) This Act may be called the Assam Executive Magistrates
(Temporary Powers) Act, 1983.

Assam Act
2 of 1915.

(2) It shall come into force at once and shall cease to have effect on
the expiry of a period of three months thereafter and section 6 of the
Assam General Clauses Act, 1915 shall apply to such cesser as if such
cesser were a repeal of an Act of the Legislature of the State of Assam
by another Act of that Legislature.

Short title
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ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Code" means the Code of Criminal Procedure, 1973 in its application to the State of Assam; 2 of 1974.

(b) "Executive Magistrate" means an Executive Magistrate in the State of Assam; and

(c) words and expressions used herein and not defined, but defined in the Code shall have the meanings respectively assigned to them in the Code.

Conferment of temporary powers on Executive Magistrates.

3. (1) Notwithstanding anything to the contrary contained in the Code, the Executive Magistrates may, in addition to the Judicial Magistrates, exercise powers of remand under section 167 of the Code.

(2) Notwithstanding anything contained in the Code, the Executive Magistrates shall, to the exclusion of any other Magistrate, have power to take cognizance of, and try and dispose of cases relating to,—

(a) offences under the Indian Penal Code or any other law for the time being in force punishable with imprisonment which may extend to six months or with fine or with both; 45 of 1860.

(b) other offences, being offences punishable under Chapter VIII (offences against the public tranquillity), and Chapter X (Contempts of the lawful authority of public servants), of the Indian Penal Code: 45 of 1860.

Provided that no sentence of imprisonment for a term exceeding six months shall be passed by an Executive Magistrate in the case of any conviction for an offence referred to in clause (b).

(3) For the purposes of this section, the Code shall have effect subject to the modifications specified in the Schedule and subject to such other modifications as may be necessary.

(4) Nothing in this section shall apply to cases relating to offences taken cognizance of under the Code before the commencement of this Act.

THE SCHEDULE

[See section 3 (3)]

MODIFICATIONS IN THE CODE

1. In section 167 of the Code,—

(a) in sub-section (1), the reference to "Judicial Magistrate" shall be construed as a reference also to Executive Magistrate;

(b) in sub-section (2),—

(i) for the word "Magistrate", at the first two places where that word is preceded by the definite article, the words "Judicial Magistrate or the Executive Magistrate, as the case may be," shall be substituted;

(ii) for the word "Magistrate", at the place where that word is preceded by the indefinite article "a", the words and brackets "Magistrate (whether Judicial or Executive)" shall be substituted;

(iii) paragraph (c) of the proviso shall be omitted;

(c) sub-section (2A) shall be omitted;

(d) in sub-section (4), for the words "to the Chief Judicial Magistrate", the words "where such Magistrate is a Judicial Magistrate, to the Chief Judicial Magistrate, and where such Magistrate is an Executive Magistrate, to the Sessions Judge" shall be substituted.

2. In section 190 of the Code, in sub-section (1), after the words "any Magistrate of the first class," the words "any Executive Magistrate," shall be inserted.

3. In section 191 of the Code, the reference to "Chief Judicial Magistrate" shall, in relation to an offence taken cognizance of by an Executive Magistrate, be construed as a reference to the District Magistrate.

4. In section 374 of the Code, in clause (a) of sub-section (3), for the words "Magistrate of the first class, or of the second class", the words "Magistrate of the first class, Executive Magistrate or a Magistrate of the second class," shall be substituted.

ZAIL SINGH,

President.

R. V. S. PERI SASTRI,

Secy. to the Govt. of India.

Reasons for the enactment

The agitation in Assam has put the law and order machinery as well as the machinery for the administration of Justice in the State under considerable strain. The agitationists have given a call for the further intensification of the agitation. The machinery for the administration of justice which is already under severe pressure of work may not be able to cope with the situation. For dealing effectively with the extraordinary circumstances prevailing in the State of Assam, it is considered necessary to amend the Code of Criminal Procedure, 1973 in its application to the State of Assam temporarily, for a period of three months, to entrust the trial of petty offences and offences having a bearing on peace and public tranquillity exclusively to the Executive Magistrates and to enable them to exercise the powers to grant remand concurrently with the Judicial Magistrates. The present measure seeks to achieve these objects.

2. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee of Parliament on Assam Legislation constituted under the proviso to sub-section (2) of section 3 of the Assam State Legislature (Delegation of Powers) Act, 1982. The measure is accordingly being enacted without reference to the Consultative Committee.

T. N. CHATURVEDI,

Secy. to the Govt. of India
(Ministry of Home Affairs).